



Memphis and Shelby County Land Use Control Board

CITY HALL 125 NORTH MID AMERICA MALL MEMPHIS, TENNESSEE 38103-2084
(901) 576-6619

(Please visit our web site at: <http://www.dpdgov.com>)

MINUTES

Date: October 13, 2011

Meeting Attendance

LUCB Board Members

OFFICERS/MEMBERS	NAME	PRESENT	ABSENT
Chairman	James Toles	X	
Member	Loyal Featherstone	X	
Member	Rusty Linkous	X	
Member	Jon McCreery	X	
Member	Margaret Pritchard	X	
Member	Robert Norcross		X
Member	Mary Sharp	X	
Member	Emily Trenholm	X	
Member	Lisa Wilbanks	X	
Member	Rosalyn Willis	X	
Alternate Member	Frank Colvett, Jr.		X

Call to Order and Roll Call

Chairman James Toles called the meeting to order at 10:00 a.m. Don Jones called the roll. There was a quorum.

LUCB Staff: Josh Whitehead, Director of Office of Planning and Development, Chip Saliba, Brian Bacchus, Don Jones, Gregory Love and Sheila Pounder.

Others Present: David Baker, Martin Edwards, Sharon Paige, Cindy Reaves, Alisha Sharp, John Stevenson, Mitchell Stuckey, Keana Wachenschwanz, and Scotty Wachenschwanz.

Chairman's Opening Remarks

Chairman Toles read the General Order of the Public Hearing proceedings and the Conflict of Interest Statement.

Secretary's Report

No Secretary's Report given.

Approval of Minutes: September 8, 2011

Board Member McCreery made a motion to approve the minutes. Board Member Trenholm seconded the motion. The motion passed unanimously.

General Order of Public Hearing

Chairman Toles explained the procedure for hearing the applications; staff presentation for the application; applicant comments; comments from the public; time limits; rebuttal; and the LUCB's discussion and action. The Consent Agenda Items 1-7 were read. Chairman Toles also explained the procedure for hearing the Consent Agenda Items. He then introduced Board Member Loyal Featherstone to read the Consent Agenda Items.

Consent Agenda (Items 1-7)

- 1. CASE NUMBER:** S 07-018 CC
DEVELOPMENT NAME: EDGEWOOD SUBDIVISION
Request: Two Year Time Extension – 11 Lot Preliminary Plan
Staff's Recommendation: Approval subject to the previous conditions approved by the LUCB on 10/11/07 and an addition condition concerning steep slope protection.
- 2. CASE NUMBER:** SAC 11-608
DEVELOPMENT NAME: JOY LANE CLOSURE (EAST/WEST SEGMENT)
Request: Close and vacate street Right-Of-Way
Staff's Recommendation: Approval with conditions.
- 3. CASE NUMBER:** SAC11-609
LOCATION: NORTH SIDE OF MARBLE AVENUE, 968 FT. EAST OF EVERGREEN STREET
Request: Close alley Right-Of-Way
Staff's Recommendation: Approval with conditions. Condition #2 was dropped.
- 4. CASE NUMBER:** P.D. 90-343
DEVELOPMENT NAME: POPLAR COURT PLANNED DEVELOPMENT
Request: Tenant Building Sign
Staff's Recommendation: Approval with conditions.
- 5. CASE NUMBER:** P.D. 02-302
DEVELOPMENT NAME: THE ENCLAVE AT SPARKLE CREEK PLANNED DEVELOPMENT – PHASE 2)
Request: Modification to Phase 2 Final Plan to increase the number of single Family lots from thirty-three (33) to thirty-six (36) lots within the planned development.
Staff's Recommendation: Approval with four (4) conditions.
- 6. CASE NUMBER:** SUP 86-210
LOCATION: NW CORNER OF EASTMORELAND AVE. & I-240
Request: Expansion of facility to add office and meeting space, garage, storage, training room, and upgraded pilot sleeping quarters, and revisions to existing landscaping.
Staff's Recommendation: Approval with conditions.

7. CASE NUMBER: SUP 09-216
LOCATION: NORTH SIDE OF WEST RAINES RD; +/-330 FT. EAST OF OPPORTUNITY ROAD

Request: Preliminary Plat Time Extension for a new cemetery to resolve requirements to TDEC for construction of a bridge/culvert crossing.

Staff's Recommendation: Approval.

Discussion Summary –Consent Agenda Items 2, 5, and 6 were pulled for discussion. Board Member Featherstone made a motion to approve Consent Agenda Items 1, 3, 4, and 7. The motion was seconded by Board Member Pritchard. The motion passed unanimously.

Pulled Consent Agenda (Items 2, 5 and 6) for discussion

Chairman Toles called for the first Consent Agenda Item case.

Item 2: CASE #: SAC 11-608 JOY LANE CLOSURE (EAST/WEST SEGMENT)
Request for closure and vacate street Right-Of-Way.
Staff's Recommendation: Approval with conditions.

Chairman Toles asked if applicant was present and state their opposition with staff's recommendation.

Ms. Sharon Paige approached and stated his name and address as 5880 Ridge Bend Rd. and that she did not agree with condition #2.

Chairman Toles asked if staff would present the case to the board.

Staff member Shelia Pounder gave a summary of staff report, showing various aerial views and location of the case property. She showed photos of the surrounding residential properties to give an idea of the character of the neighborhood. She also mentioned reasons for the recommended conditions pending approval.

Ms. Paige stated that she did not understand the requested change or the reconstruct the street since it dead-ends into their facility. She also did not see a need for a curb and the street should remain the same. Ms. Paige gave reasons due to the fact of housing Juveniles, for their safety and protection plus it gives control and oversight of the residents. She also added that it would place an undue burden on their nonprofit agency to reconstruct the driveway.

Chairman Toles asked for a motion from the board and opened the floor for Board discussion.

Board member Featherstone made a motion to approve case SAC 11-608 in accordance with staff's recommendation. The motion was second by Board member Wilbanks.

Board member Pritchard asked staff member Pounder if she had any objection to the applicant's request. Shelia responded saying, no but the question would have to be directed to the City Engineering's Office. Mr. John Stevenson, from City Engineering stated that whenever a public street is closed for private use, it's required to 1) post sign stating "Private Drive" and 2) have a

10ft. concrete band separating the public street from the private. He noted that a curb or apron is not required just a band of some sort.

Board member Trenholm disagreed with both Mr. Stevenson and Chairman Toles. She stated that under the circumstances, she understood why the rule is in place but this street/driveway is tucked away next to the interstate with a gate. She then made a motion to amend the original motion to delete Condition #2 from the staff report. The motion was seconded by Board member Pritchard. The amended motion passed unanimously.

Chairman Toles then asked for a vote on the original motion. The motion passed unanimously.

*Applicant's case was approved by the board with the deletion of Condition #2.

Item 5: CASE #: P.D. 02-302 CC THE ENCLAVE AT SPARKLE CREEK PLANNED DEVELOPMENT – PHASE 2

Request for Modification to Phase 2 Final Plan to increase the number of single Family lots from thirty-three (33) to thirty-six (36) lots within the planned development.
Staff's Recommendation: Approval with four (4) conditions.

Chairman Toles asked if applicant was present and state their opposition with staff's recommendation.

Applicant approached and stated that he did agree with staff's recommendation and condition and did not know why it was not approved with the Consent Agenda Items.

Chairman Toles asked staff why it was pulled.

A representative from County Engineering stated that they had concern of a sewer pipe in the middle of Lot 41 of the development. Applicant stated that was a vacant easement and there were no sewer pipes in the easement. The applicant also stated that the easement was going to be relocated.

Chairman Toles asked for a motion and opened the floor for board discussion. Board member Featherstone made a motion to approve Case P.D. 02-302 CC per staff's recommendation. The motion was seconded by Board member Pritchard.

Chairman Toles wanted clarity on what the County Engineering staff was requesting and if the applicant's response resolved their concerns.

Josh Whitehead stated that what was being requested was a friendly amendment to formally vacate the easement on Lot 41b.

Chairman Toles asked the applicant if he was in agreement with the friendly amendment. The applicant stated he was. Then Chairman Toles asked for a vote. The motion passed unanimously.

Item 6: CASE #: SUP 86-210

NW CORNER OF EASTMORELAND AVE. & I-240

Request for Expansion of facility to add office and meeting space, garage, storage, training room, and upgraded pilot sleeping quarters, and revisions to existing landscaping.

Staff's Recommendation: Approval with conditions.

**Board Member Linkous recused himself from this case.*

Chairman Toles asked if applicant was present and state their opposition with staff's recommendation.

The applicant approached and stated that there were 2 conditions related to the removal of a fence he would like to be amended. He noted that the fence was the property of TDOT.

Chairman Toles asked if staff were in agreement with an amendment to remove the conditions.

Staff member Don Jones noted for the record that he would like to make a friendly amendment the conditions in the staff report. His amendment was to delete the last two sentences in Item #5 and the last sentence in Item #6 of the conditions. Don added that the fence was the property of another entity and it was outside of the applicant's control to have it removed.

Chairman Toles asked for a motion and opened the floor for board discussion. Board member Featherstone made a motion to approve Case SUP 86-210 per staff's recommendation with the Friendly Amendment to the conditions. The motion was seconded by Board member Pritchard. The motion passed unanimously.

REGULAR AGENDA ITEMS

Chairman Toles introduced Board Member Pritchard to read the Regular Agenda Items and serve as Zoning Chair.

Item 8: CASE #: P.D.11-309

**HOUSTON LEVEE TRAILS PLANNED
DEVELOPMENT 1ST ADDITION, 3RD
AMENDMENT**

Request for 1) Add .59 Acres to planned development boundary, 2) Change a portion of Area A to Area C, 3) Permit Commercial Mixed Use-2 (CMU-2) District uses Within Area C, including Multi-Family Residential and a cellular tower.

Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present and if there were any opposition. There was opposition. He then asked staff to present the staff report.

Staff member Greg Love gave a summary of staff report, showing various aerial views and location of the case property at Hwy 64 and Houston Levee Rd. He showed photos of the surrounding residential properties to give an idea of the character of the neighborhood and the development area. He also mentioned reasons for the recommended conditions pending approval.

Chairman Toles asked if the applicant for their comments.

Cindy Reaves approached and stated her name and address as 5909 Shelby Oaks Dr., Ste. 200 and that she did agree with staff's recommendation. She also stated that she would like to propose an amendment regarding the closure of the street stub of Breezy Ridge Lane and not to have it extend to Hwy. 64. She then stated she would like to add a buffer to allow the CMU-2 regulations apply for the site to have a setback of 100ft. for the multi-family residential area and 50ft. buffer for the Commercial.

Martin Edwards approached and stated his name and address as 1654 Harbert. He asked where you would get proof or approval to satisfy that the area would have capacity to accommodate the projected school children other than the site plan submitted.

Chairman Toles asked if there were any opposition from general public who wanted to give comments.

Keana Wachenschwanz approached and stated her name and address as 10026 Cameron Ridge Trail, Cordova, TN 38016 and that she was in opposition because 1) want the Breezy Ridge Lane stub street deleted, 2) wants to be assured and told how drainage holes and flooding would not be created by the new development, and 3) wanted to see a lot of green space between properties.

Mitchell Stuckey approached and stated his name and address as 10022 Cameron Ridge Trial, Cordova, TN 38016 and that he was in opposition because 1) the risk and concern of the property value going down with a development nearly in his backyard, 2) the safety of his elderly parents from onlookers of a 3-story structure with his parents being home alone.

Scotty Wachenschwanz approached and stated his name and address as 10026 Cameron Ridge Trial, Cordova, TN 38016 and that he was in opposition because 1) he wanted to see a site plan and be assure there would be no drainage issues, sink holes or flooding into the backyards of the existing homes.

Chairman Toles asked if there were any rebuttal comments from the applicant.

Cindy Reaves approached and stated that once the site is developed, the drainage should be improved tremendously. She added that she would work closely with the City Engineer's Office to make sure there would be no drainage issues for the proposed and existing properties.

Chairman Toles asked for a motion and opened the floor for board discussion. Board member Prichard made a motion to approve Case P.D. 11-309 per staff's recommendation. The motion was seconded by Board member Wilbanks.

Board member Pritchard made an amended motion to accept Cindy Reaves request for the addition of the CMU-2 bulk regulation apply for the site to have a setback of 100ft. for the multi-family residential area and 50ft. buffer for the Commercial for Area A & C. The motion was seconded by Board member Wilbanks.

Ms. Alisha Sharp was allowed to give comments regarding the statistics of the over-enrollment of students and she too wanted to know if the area would have capacity to accommodate the projected school children.

Board member McCreery expressed that he does not feel that imposing the burden of proof from the applicant to show or prove that the area would have capacity to accommodate the projected school children is the LUCB's responsibility.

Chairman Toles asked for a vote on the amended motion. The motion passed unanimously.

Board member Pritchard made another amended motion to delete the condition that stated, "Existing stub at Breezy Ridge Lane shall connect the newly created Area C to the existing single family residential subdivision to the south and Highway 64" and that the stub be closed. The motion was seconded by Board member Featherstone. The motion passed with an 8-1 vote. Board member Trenholm voted in opposition/no.

Board member McCreery made an amended motion to delete the condition for applicant to get approval from the School Board to prove the area would have capacity to accommodate the projected school children. The motion was seconded by Board member Pritchard. The motion passed with a 7-2 vote. Board member Trenholm and Sharp voted in opposition/no.

Chairman Toles asked for a vote on the original main motion of approval with staff's recommendation. The motion passed unanimously.

Item 9: CASE #: PD 11-316

KIRBY GATE WEST (REVISED) PLANNED DEVELOPMENT

Request for retail and office use.

Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present and if there were any opposition. There was opposition. He then asked staff to present the staff report.

David Baker approached and stated his name and address as 9180 Crestwyn Hills D., Ste. 100 and that he was not in opposition of staff's recommendation. He also stated that after he spoke with City Engineering and staff that they agreed upon some friendly amendments.

For the record, staff member Don Jones noted 5 Friendly Amendments (3 Planning issues & 2 City Engineering issues) that were agreed upon by all parties. The amendments dealt with the addition to the prohibited usage list, addition of materials to be used, change in queue space, and drainage. Also, he made note of the revised comments from MCS which lead to the amendments.

Chairman Toles asked for a motion. Board member Pritchard made a motion to approve Case #PD 11-316 as amended. Board member Wilbanks seconded the motion. The motion passed unanimously.

Item 10: CASE #: SUP 11-213 NORTH SIDE OF WALNUT GROVE RD/REDDITT RD.

Request for Doggy Day Care.

Staff's Recommendation: Hold for 30 days.

Chairman Toles asked if the applicant was present and if there were any opposition.

Applicant was present and agreed with staff's recommendation to hold case for 30 days.

Chairman Toles asked for a motion. Board member Pritchard made a motion to approve Case #SUP 11-213 for 30 days as recommended by staff. Board member Wilbanks seconded the motion. The motion passed unanimously.

Item 11: CASE #: SE 11-05 NE CORNER OF JACK CARLEY CAUSEWAY; +/- 1,396.0 FEET WEST OF RIVERDALE DRIVE

Request for height exemption for Grain Terminal.

Staff's Recommendation: Approval with conditions.

Chairman Toles asked if the applicant was present and if there were any opposition.

Staff member Greg Love noted that there were opposition from French Fort community, North of the site but no one was present. He also noted that since receiving new information regarding the height of other structures near and around the case site, he requested to make an amendment to the conditions. His amendment was to include that all structures within the subject site (23.47 Acres) be governed by the IH District except the Grain Elevator with height of 160ft.

Applicant was present and agreed with staff's recommendation with the Friendly Amendment.

Chairman Toles asked for a motion. Board member Pritchard made a motion to approve Case #SE 11-05 as amended. Board member Wilbanks seconded the motion. The motion passed unanimously.

ADJOURNMENT:

There being no further business, the meeting there upon adjourned.

MINUTES APPROVED: 11-10-11


CHAIRMAN


SECRETARY